

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE STATE, A LOCAL GOVERNMENT, OR A SCHOOL DISTRICT FROM ISSUING A LICENSE OR REGISTRATION TO AN UNAUTHORIZED ALIEN AND REQUIRING THAT THE AGENCY, LOCAL GOVERNMENT, OR SCHOOL DISTRICT DETERMINE THE IMMIGRATION STATUS OF THOSE WHO HAVE RECEIVED LICENSES OR REGISTRATIONS; REQUIRING THE REVOCATION OF CERTAIN LICENSES AND REGISTRATIONS FROM UNAUTHORIZED ALIENS AND PROVIDING FOR DUE PROCESS; AMENDING SECTIONS 2-2-121, 2-8-101, 7-14-2823, 7-14-4303, 7-21-2103, 7-21-2308, 7-21-2409, 7-21-2506, 7-21-4101, 7-21-4205, 15-70-202, 15-70-302, 16-11-120, 20-7-604, 23-4-201, 30-11-516, 30-12-203, 49-3-204, 50-6-306, 50-39-101, 50-50-201, 50-51-201, 50-52-201, 50-57-201, 52-2-621, 52-2-721, 67-3-101, 81-9-201, 81-9-301, 81-9-411, 81-20-201, 81-21-102, 81-22-201, 81-22-204, 81-23-201, AND 82-15-105, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-2-121, MCA, is amended to read:

"2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) subject to subsection (7), use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person, including a person who is an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3), for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person, including a person who is an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3), for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

1 (e) perform an official act directly and substantially affecting to its economic benefit a business or other
2 undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel,
3 consultant, representative, or agent; or

4 (f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a
5 person whom the officer or employee regulates in the course of official duties without first giving written
6 notification to the officer's or employee's supervisor and department director.

7 (3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use public
8 time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political
9 committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the
10 use is:

11 (i) authorized by law; or

12 (ii) properly incidental to another activity required or authorized by law, such as the function of an elected
13 public officer, the officer's staff, or the legislative staff in the normal course of duties.

14 (b) As used in this subsection (3), "properly incidental to another activity required or authorized by law"
15 does not include any activities related to solicitation of support for or opposition to the nomination or election of
16 a person to public office or political committees organized to support or oppose a candidate or candidates for
17 public office. With respect to ballot issues, properly incidental activities are restricted to:

18 (i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the
19 impact of passage or failure of a ballot issue on state or local government operations;

20 (ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of
21 law governing public meetings of the local board of trustees, including the resulting dissemination of information
22 by a board of trustees or a school superintendent or a designated employee in a district with no superintendent
23 in support of or opposition to a bond issue or levy submitted to the electors. Public funds may not be expended
24 for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the
25 electors.

26 (c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express
27 personal political views.

28 (4) A candidate, as defined in 13-1-101(6)(a), may not use or permit the use of state funds for any
29 advertisement or public service announcement in a newspaper, on radio, or on television that contains the
30 candidate's name, picture, or voice except in the case of a state or national emergency and then only if the

1 announcement is reasonably necessary to the candidate's official functions.

2 (5) A public officer or public employee may not participate in a proceeding when an organization, other
3 than an organization or association of local government officials, of which the public officer or public employee
4 is an officer or director is:

5 (a) involved in a proceeding before the employing agency that is within the scope of the public officer's
6 or public employee's job duties; or

7 (b) attempting to influence a local, state, or federal proceeding in which the public officer or public
8 employee represents the state or local government.

9 (6) A public officer or public employee may not engage in any activity, including lobbying, as defined in
10 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of
11 which the public officer or public employee is a member while performing the public officer's or public employee's
12 job duties. The provisions of this subsection do not prohibit a public officer or public employee from performing
13 charitable fundraising activities if approved by the public officer's or public employee's supervisor or authorized
14 by law.

15 (7) A listing by a public officer or a public employee in the electronic directory provided for in 30-17-101
16 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section.
17 The public officer or public employee may not make arrangements for the listing in the electronic directory during
18 work hours.

19 (8) A department head or a member of a quasi-judicial or rulemaking board may perform an official act
20 notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute
21 and if the person complies with the disclosure procedures under 2-2-131.

22 (9) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless
23 the member is also a full-time public employee.

24 (10) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government
25 from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise
26 enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to
27 performing the official act."

28
29 **Section 2.** Section 2-8-101, MCA, is amended to read:

30 **"2-8-101. Purpose.** (1) The legislature finds state government actions have produced a substantial

1 increase in numbers of agencies, growth of programs, and proliferation of rules. The legislature questions whether
2 conditions causing the establishment of these agencies, programs, and rules have not changed to such an extent
3 as to remove the need for some or all of the agencies, programs, and rules.

4 (2) It is the intent of the legislature, by establishing a system of periodic evaluation of the need for and
5 the performance of agencies or programs preparatory to termination, modification, or reestablishment, to be in
6 a better position to ensure as follows:

7 (a) The executive department is responsive to the needs of all of the people of the state.

8 (b) ~~No~~ An agency, program, or rule that exists ~~which~~ is ~~not~~ responsive to those needs.

9 (c) ~~No~~ A profession, occupation, business, industry, or other endeavor is not subject to the state's
10 regulatory power unless the exercise of ~~such~~ power is necessary to protect the public health, safety, or welfare
11 from significant and discernible harm or damage. The exercise of the state's police power ~~shall~~ must be done only
12 to the extent necessary for that purpose.

13 (d) The state may not regulate a profession, occupation, industry, business, or other endeavor in a
14 manner ~~which~~ that will unreasonably adversely affect the competitive market.

15 (e) There exists a systematic legislative review of the need for and public benefits derived from a
16 program or function by a periodic review and termination, modification, or reestablishment of ~~such~~ programs and
17 functions.

18 (3) On and after October 1, 2009, an agency shall conduct a review of licenses issued by it to determine
19 whether any license has been issued to an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3). Any license
20 that an agency finds has been issued to an unauthorized alien must be revoked using a procedure determined
21 by the agency to offer due process of law to the person. The only issue to be determined by an agency on which
22 evidence may be received is whether the United States has determined the person to be an unauthorized alien."
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24 **Section 3.** Section 7-14-2823, MCA, is amended to read:

25 **"7-14-2823. Hearing and decision on application.** (1) At the hearing, proof of giving the notice required
26 by 7-14-2821 and 7-14-2822 must be made, and any person may appear and contest the application. If the board
27 of commissioners finds that the ferry is either a public necessity or convenience and that the applicant is a
28 suitable person and, by reason of the ownership of the landing or failure of the owner of the landing to apply, is
29 entitled to operate the ferry, authority to erect and take tolls on the ferry may be granted to the applicant for the
30 term of 10 years. The board may at any time authorize and maintain fords across any water within any distance

1 of a ferry.

2 (2) The board granting authority to keep a public ferry shall at the same time:

3 (a) fix the amount of a bond to be given by the person or corporation owning or taking tolls on the ferry
4 for the benefit of the county and all persons crossing or desiring to cross on the ferry and provide for the annual
5 renewal of the bond;

6 (b) fix the amount of license tax to be paid by the person or corporation for taking tolls on the ferry, not
7 less than \$3 or more than \$100 a month, payable annually;

8 (c) fix the rate of tolls that may be collected for crossing on the ferry;

9 (d) make all necessary orders relative to the construction, erection, and business of ferries that it has
10 by law the power to make.

11 (3) When a county commissioner is interested in an application to erect, construct, or take tolls on a ferry,
12 the commissioner may not act in those matters.

13 (4) On and after October 1, 2009, the board may not grant a license to a person who is determined to
14 be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

15 (5) The board shall conduct a review of licenses issued by it to determine whether any license has been
16 issued to a person who is not allowed to hold a license pursuant to subsection (4). Any license that the board
17 finds has been issued to an unauthorized alien must be revoked using a procedure determined by the board to
18 offer due process of law to the person. The only issue to be determined by the board on which evidence may
19 be received is whether the United States has determined the person to be an unauthorized alien."

20
21 **Section 4.** Section 7-14-4303, MCA, is amended to read:

22 **"7-14-4303. Authorization for and regulation of street railroads.** (1) The city or town council has
23 power to license and authorize the construction and operation of street railroads and to require them to conform
24 to the grade of the street as the same is or may be established.

25 (2) On and after October 1, 2009, the city or town council may not grant a license to a person who is
26 determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

27 (3) The city or town council shall conduct a review of licenses issued by it to determine whether any
28 license has been issued to a person who is not allowed to hold a license pursuant to subsection (2). Any license
29 that the city or town council finds has been issued to an unauthorized alien must be revoked using a procedure
30 determined by the city or town council to offer due process of law to the person. The only issue to be determined

1 by the city or town council on which evidence may be received is whether the United States has determined the
2 person to be an unauthorized alien."

3
4 **Section 5.** Section 7-21-2103, MCA, is amended to read:

5 **"7-21-2103. Determination of persons required to obtain licenses -- classes of licenses.** (1) The
6 county treasurer shall make diligent inquiry as to all persons in the county required to pay a license fee as
7 provided in this part.

8 (2) Whenever the licenses are divided into classes, the county treasurer shall require each person to
9 state, under oath or affirmation, the probable amount of business that the person, the firm of which the person
10 is a member or for which the person is an agent or attorney, or the association or corporation of which the person
11 is the president, secretary, or managing agent will do in the succeeding 3 months. The person, agent, president,
12 secretary, or other officer shall procure a license from the county treasurer for the term desired and the proper
13 class. In all cases in which an underestimate has been made by the party applying, the party making the
14 underestimate or the company that the party represented is required to pay double the sum otherwise required
15 for a license for the next quarter.

16 (3) On and after October 1, 2009, the county treasurer may not grant a license to a person who is
17 determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

18 (4) The county treasurer shall conduct a review of licenses issued by it to determine whether any license
19 has been issued to a person who is not allowed to hold a license pursuant to subsection (3). Any license that
20 the county treasurer finds has been issued to an unauthorized alien must be revoked using a procedure
21 determined by the county treasurer to offer due process of law to the person. The only issue to be determined
22 by the county treasurer on which evidence may be received is whether the United States has determined the
23 person to be an unauthorized alien."

24
25 **Section 6.** Section 7-21-2308, MCA, is amended to read:

26 **"7-21-2308. Processing of application -- issuance of license.** (1) Upon filing of the application
27 prescribed in 7-21-2305 or the filing of the application and the bond prescribed in 7-21-2306, in proper form, and
28 upon the payment to the county treasurer of the sum required by 7-21-2303, the county treasurer shall issue and
29 deliver to the applicant a license to carry on the business described in the application in the county in which the
30 license is issued for a period of 90 days from the date of the license.

(2) The county treasurer shall endorse upon each application the date of issuance of the license and shall immediately file the application with the county clerk and recorder of that county. The county clerk and recorder shall file the application in the clerk's office and keep an appropriate index of the applications that shows the date filed, the name of the applicant, and an appropriate reference to the file number by which the application may be found.

(3) On and after October 1, 2009, the county treasurer may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(4) The county treasurer shall conduct a review of licenses issued by it to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (3). Any license that the county treasurer finds has been issued to an unauthorized alien must be revoked using a procedure determined by the county treasurer to offer due process of law to the person. The only issue to be determined by the county treasurer on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

Section 7. Section 7-21-2409, MCA, is amended to read:

"7-21-2409. Processing of application -- issuance of license. (1) (a) Upon filing of the application prescribed in 7-21-2406 and the payment of the fee prescribed in 7-21-2404, the county treasurer shall issue and deliver to the applicant, in the county, a license to carry on the business described in the application in the county in which the license is issued for the period for which the license is requested.

(b) Upon filing of the application prescribed in 7-21-2406 and the bond prescribed in 7-21-2407, the county treasurer shall issue and deliver to the applicant a license to carry on the business described in the application in the county in which the license is issued for a period of 1 year from the date of the license.

(2) The county treasurer shall endorse upon each application the date of issuance of the license and the duration of the license and shall immediately file the application with the county clerk and recorder of the county. The county clerk and recorder shall file the application in the clerk's office and keep an appropriate index of the applications that shows the date filed, the name of the applicant, and an appropriate reference to the file number by which the application may be found.

(3) On and after October 1, 2009, the county treasurer may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(4) The county treasurer shall conduct a review of licenses issued by it to determine whether any license

1 has been issued to a person who is not allowed to hold a license pursuant to subsection (3). Any license that
2 the county treasurer finds has been issued to an unauthorized alien must be revoked using a procedure
3 determined by the county treasurer to offer due process of law to the person. The only issue to be determined
4 by the county treasurer on which evidence may be received is whether the United States has determined the
5 person to be an unauthorized alien."

6
7 **Section 8.** Section 7-21-2506, MCA, is amended to read:

8 **"7-21-2506. Processing of application -- issuance of license.** (1) Upon filing of the application
9 specified in 7-21-2505 and upon the payment to the county treasurer of the sum specified in 7-21-2503, the
10 county treasurer shall issue and deliver to the applicant a license to carry on the business of a huckster for a
11 period of 6 months from the date of the license.

12 (2) The county treasurer shall endorse upon each application the date of issuance of the license and
13 shall immediately file the application with the county clerk and recorder of the county. The county clerk and
14 recorder shall file the application in the clerk's office and keep an appropriate index of the applications that shows
15 the date filed, the name of the applicant, and an appropriate reference to the file number by which the application
16 may be found.

17 (3) On and after October 1, 2009, the county treasurer may not grant a license to a person who is
18 determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

19 (4) The county treasurer shall conduct a review of licenses issued by it to determine whether any license
20 has been issued to a person who is not allowed to hold a license pursuant to subsection (3). Any license that
21 the county treasurer finds has been issued to an unauthorized alien must be revoked using a procedure
22 determined by the county treasurer to offer due process of law to the person. The only issue to be determined
23 by the county treasurer on which evidence may be received is whether the United States has determined the
24 person to be an unauthorized alien."

25
26 **Section 9.** Section 7-21-4101, MCA, is amended to read:

27 **"7-21-4101. General licensing power of municipalities.** (1) The city or town council has power:
28 (a) to license by ordinance all industries, pursuits, professions, and occupations and to impose penalties
29 for failure to comply with ~~such~~ the license requirements;
30 (b) to fix the amount, terms, and manner of issuing and revoking licenses.

(2) The council may refuse to issue licenses when it ~~may deem~~ considers it best for the public interests.

(3) On and after October 1, 2009, the city or town council may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(4) The city or town council shall conduct a review of licenses issued by it to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (3). Any license that the city or town council finds has been issued to an unauthorized alien must be revoked using a procedure determined by the city or town council to offer due process of law to the person. The only issue to be determined by the city or town council on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

Section 10. Section 7-21-4205, MCA, is amended to read:

"7-21-4205. Licensing and regulating of vehicles engaged in transporting persons and property.

(1) The city or town council has power to license and regulate automobiles, trucks, hackney carriages, carts, omnibuses, wagons, and drays and to fix the rate to be charged for the carriage of persons and property within the city or town and to the public works and property without the limits of the city or town.

(2) On and after October 1, 2009, the city or town council may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(3) The city or town council shall conduct a review of licenses issued by it to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (2). Any license that the city or town council finds has been issued to an unauthorized alien must be revoked using a procedure determined by the city or town council to offer due process of law to the person. The only issue to be determined by the city or town council on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

Section 11. Section 15-70-202, MCA, is amended to read:

"15-70-202. License and security of gasoline distributors -- denial or revocation of license. (1) (a)

Each gasoline distributor, including an exporter and importer, as those terms are defined in 15-70-201, prior to the commencement of doing business, shall file:

(i) an application for a license with the department on forms prescribed and furnished by the department setting forth the information that may be requested by the department; and

1 (ii) security with the department in an amount to be determined by the department.

2 (b) (i) Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed twice
3 the estimated amount of gasoline taxes that the distributor will pay to this state each month.

4 (ii) The minimum required security for a distributor who imports or exports gasoline, or both, is \$25,000.

5 (c) Upon approval of the application, the department shall issue to the distributor a nonassignable license
6 that is in force until surrendered or canceled.

7 (2) The department may deny the issuance of a gasoline distributor license or revoke a gasoline
8 distributor license if it determines that the applicant or distributor:

9 (a) has violated any provision of this chapter or any rule of the department relating to gasoline or special
10 fuel, or both;

11 (b) fails to provide the security required by the department;

12 (c) has had a distributor license revoked or denied by the department or another jurisdiction within a
13 3-year period;

14 (d) is not in compliance with motor fuels laws in other jurisdictions; or

15 (e) fails to pay the gasoline license tax.

16 (3) If an application for a gasoline distributor license is denied or revoked, the applicant or distributor has
17 the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

18 (4) As used in this section "security" means:

19 (a) a bond executed by a distributor as principal with a corporate surety qualified under the laws of
20 Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of this
21 part, including the payment of all taxes and penalties; or

22 (b) a deposit made by the distributor with the department, under the conditions that the department may
23 prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal
24 deposit insurance corporation.

25 (5) Failure to obtain a gasoline distributor license as required in this section subjects the distributor to
26 the provisions of 15-70-233 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

27 (6) The owner of a commercial motor vehicle that is engaged in transporting fuel for a distributor is not
28 subject to the provisions of this section.

29 (7) A distributor may not blend ethanol-blended gasoline unless licensed by the department. If a
30 distributor cannot be licensed, the distributor is required to buy preblended ethanol-blended gasoline.

1 (8) On and after October 1, 2009, the department may not grant a license to a person who is determined
2 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

3 (9) The department shall conduct a review of licenses issued by it to determine whether any license has
4 been issued to a person who is not allowed to hold a license pursuant to subsection (8). Any license that the
5 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
6 the department to offer due process of law to the person. The only issue to be determined by the department on
7 which evidence may be received is whether the United States has determined the person to be an unauthorized
8 alien."

9
10 **Section 12.** Section 15-70-302, MCA, is amended to read:

11 **"15-70-302. Special fuel user's permits required -- exceptions.** (1) (a) A special fuel user shall obtain
12 a special fuel user's permit annually from the department prior to the use of special fuel:

13 (i) by a special fuel user awarded a contract or subcontract in accordance with 15-70-321; or

14 (ii) in a vehicle permitted pursuant to an agreement adopted pursuant to 15-70-121.

15 (b) Except as provided in subsection (3), a special fuel user shall at all times display the original or a
16 reproduced copy of the permit in each special fuel vehicle operated by the special fuel user upon the public roads
17 and highways. The permit or copy must be exhibited for inspection on request of any motor carrier services
18 division employee, Montana highway patrol officer, authorized employee of the department, or any other law
19 enforcement officer. The special fuel user is responsible for reproducing clear and legible copies of the permit.

20 (2) Any out-of-state user who operates a special fuel vehicle solely for recreation or for religious,
21 charitable, educational, or other eleemosynary purposes shall secure a special fuel user's courtesy vehicle permit.
22 The permit is not transferable and is valid for 90 days. Permits must be issued at no cost to the user by the
23 department motor carrier services enforcement officers and motor carrier services patrol officers. The department
24 may require a user who has fuel capacity in excess of 30 gallons to file a report and pay the tax on fuel used in
25 Montana on which the tax has not been paid.

26 (3) A special fuel user need not display the original or reproduced copy of the special fuel user's permit,
27 as required by subsection (1), if the special fuel user is registered and licensed pursuant to the International Fuel
28 Tax Agreement, as authorized by 15-70-121, and the vehicle displays a license or decal issued pursuant to the
29 agreement.

30 (4) Except as provided in 15-70-317, a special fuel user who obtains a permit under subsection (1) may

1 use only fuel on which state fuel tax has been paid.

2 (5) On and after October 1, 2009, the department may not grant a license to a person who is determined
3 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

4 (6) The department shall conduct a review of licenses issued by it to determine whether any license has
5 been issued to a person who is not allowed to hold a license pursuant to subsection (5). Any license that the
6 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
7 the department to offer due process of law to the person. The only issue to be determined by the department on
8 which evidence may be received is whether the United States has determined the person to be an unauthorized
9 alien."

10
11 **NEW SECTION. Section 13. License not to be issued to certain aliens -- suspension and**
12 **revocation.** (1) On and after October 1, 2009, the department may not grant a license to a person who is
13 determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

14 (2) The department shall conduct a review of licenses issued by it to determine whether any license has
15 been issued to a person who is not allowed to hold a license pursuant to subsection (1). Any license that the
16 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
17 the department to offer due process of law to the person. The only issue to be determined by the department on
18 which evidence may be received is whether the United States has determined the person to be an unauthorized
19 alien.

20
21 **NEW SECTION. Section 14. License not to be issued to certain aliens -- suspension and**
22 **revocation.** (1) On and after October 1, 2009, the department may not grant a license to a person who is
23 determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

24 (2) The department shall conduct a review of licenses issued by it to determine whether any license has
25 been issued to a person who is not allowed to hold a license pursuant to subsection (1). Any license that the
26 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
27 the department to offer due process of law to the person. The only issue to be determined by the department on
28 which evidence may be received is whether the United States has determined the person to be an unauthorized
29 alien.

1 **NEW SECTION. Section 15. License not to be issued to certain aliens -- suspension and**

2 **revocation.**(1) On and after October 1, 2009, the department may not grant a license to a person who is
3 determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

4 (2) The department shall conduct a review of licenses issued by it to determine whether any license has
5 been issued to a person who is not allowed to hold a license pursuant to subsection (1). Any license that the
6 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
7 the department to offer due process of law to the person. The only issue to be determined by the department on
8 which evidence may be received is whether the United States has determined the person to be an unauthorized
9 alien.

10
11 **Section 16.** Section 16-11-120, MCA, is amended to read:

12 **"16-11-120. Tobacco product licenses.** (1) Every wholesaler, subjobber, retailer, or tobacco product
13 vendor shall obtain a license from the department before engaging in the business of wholesaler, subjobber,
14 retailer, or tobacco product vendor. A separate application and a separate license is required for each place of
15 business owned, controlled, or operated by the wholesaler, subjobber, retailer, or tobacco product vendor within
16 the state of Montana. Application forms must include the type and general description of applicant organizations,
17 names of all known owners, and other pertinent information that the department may require by rule. The
18 department shall comply with rules issued by the board of review established in 30-16-302 with respect to the
19 form of electronic verification of information required or acceptable for licensing purposes.

20 (2) On and after October 1, 2009, the department may not grant a license to a person who is determined
21 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

22 (3) The department shall conduct a review of licenses issued by it to determine whether any license has
23 been issued to a person who is not allowed to hold a license pursuant to subsection (2). Any license that the
24 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
25 the department to offer due process of law to the person. The only issue to be determined by the department on
26 which evidence may be received is whether the United States has determined the person to be an unauthorized
27 alien."

28
29 **Section 17.** Section 20-7-604, MCA, is amended to read:

30 **"20-7-604. Licensing textbook dealers.** (1) Textbook dealers must be licensed to sell textbooks by the

1 superintendent of public instruction. To obtain a license, a textbook dealer shall first file with the superintendent
2 of public instruction the dealer's written agreement to:

3 (a) guarantee that textbooks must be supplied to any district at the listed, uniform sales prices in effect
4 for schools, except that the prices may be reduced in accordance with this section;

5 (b) guarantee that at no time will any textbook sale price in Montana be a larger amount than the sale
6 price to schools anywhere else in the United States under similar conditions of transportation and marketing; and

7 (c) reduce automatically the listed, uniform sales price to schools whenever reductions of these prices
8 are made anywhere in the United States.

9 (2) Textbook dealers filing the written agreement with the superintendent of public instruction shall also
10 file a surety bond with the secretary of state. The surety bond must run to the state of Montana and be
11 conditioned on the faithful performance of all duties imposed upon textbook dealers for the purpose of regulating
12 the supply of textbooks to districts. The amount of the surety bond must be set by the superintendent of public
13 instruction and may not be less than \$2,000 or more than \$10,000. It is the responsibility of the textbook dealer
14 to maintain the surety bond on a current basis.

15 (3) When the textbook dealer has complied with the written agreement and surety bond requirements
16 for licensing, the superintendent of public instruction shall issue a license to the textbook dealer.

17 (4) On and after October 1, 2009, the superintendent of public instruction may not grant a license to a
18 person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

19 (5) The superintendent of public instruction shall conduct a review of licenses issued by it to determine
20 whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (4).
21 Any license that the superintendent of public instruction finds has been issued to an unauthorized alien must be
22 revoked using a procedure determined by the superintendent of public instruction to offer due process of law to
23 the person. The only issue to be determined by the superintendent of public instruction on which evidence may
24 be received is whether the United States has determined the person to be an unauthorized alien."

25
26 **Section 18.** Section 23-4-201, MCA, is amended to read:

27 **"23-4-201. Licenses.** (1) A person may not hold a race meet, including simulcast race meets under the
28 parimutuel system, or conduct fantasy sports league wagering through a parimutuel facility, parimutuel network,
29 or a simulcast parimutuel network conducting a fantasy sports league in this state without a valid license issued
30 by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall

1 file with the department an application that must set forth the time, place, and number of days the license will
2 continue and other information the board requires.

3 (2) A person who participates in a race meet, except for a match bronc ride or a wild horse ride, must
4 be licensed and charged an annual fee set by the board. The annual fee must be paid to the department and
5 used for expenses of administering this chapter. Each person holding a license under this chapter shall comply
6 with this chapter and with the rules adopted and orders issued by the board.

7 (3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required
8 under this chapter.

9 (4) An application to hold a race meet must be submitted to the department, and the board shall act on
10 the application within 30 days. The board is the sole judge of whether the race meet may be licensed and the
11 number of days the meet may continue.

12 (5) The board shall require that a fair board and an independent racing association conducting a race
13 meet comply with the requirements of the rules adopted by the board before granting a license.

14 (6) A racing association consisting of a local fair board or an association approved by a local fair board
15 may apply for a license to hold a simulcast race meet in a simulcast facility.

16 (7) An unexpired license held by a person who violates this chapter or who fails to pay to the department
17 the sums required under this chapter is subject to cancellation and revocation by the board.

18 (8) A license to operate a parimutuel facility conducting fantasy sports league wagering may not be
19 issued to an applicant unless the applicant is also licensed under Title 23, chapter 5.

20 (9) On and after October 1, 2009, the department may not grant a license to a person who is determined
21 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

22 (10) The department shall conduct a review of licenses issued by it to determine whether any license has
23 been issued to a person who is not allowed hold a license pursuant to subsection (9). Any license that the
24 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
25 the department to offer due process of law to the person. The only issue to be determined by the department on
26 which evidence may be received is whether the United States has determined the person to be an unauthorized
27 alien."

28
29 **Section 19.** Section 30-11-516, MCA, is amended to read:

30 **"30-11-516. Powers of cities and towns. (1)** Towns and cities may tax, license, and regulate persons,

firms, associations, corporations, or other legal entities engaging in or desiring to engage in public auctions and may require a license and charge a fee ~~therefor~~ for the license. Towns and cities may provide penalties for violations of the requirements.

(2) On and after October 1, 2009, towns and cities may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(3) Towns and cities shall conduct a review of licenses issued by them to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (2). Any license that a town or city finds has been issued to an unauthorized alien must be revoked using a procedure determined by the department to offer due process of law to the person. The only issue to be determined by a city or town on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

Section 20. Section 30-12-203, MCA, is amended to read:

"30-12-203. Licensing of weighing devices. (1) A person may not knowingly operate or use an unlicensed weighing device in trade or commerce for ascertaining the weight of any commodity.

(2) A license must be obtained by applying to the department upon a form provided by the department. Each license must require at least one inspection a year.

(3) An application must be accompanied by the proper fee as established by this section, except that fees may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party.

WEIGHING DEVICES

Capacity	Fees
499 pounds or less	\$16
500 pounds through 1,999 pounds	26
2,000 pounds through 7,999 pounds	51
8,000 pounds through 60,000 pounds	130
60,001 pounds or more	225

(4) The capacity of a weighing device must be determined by the manufacturer's rated capacity.

(5) (a) All licenses are annual and, except for those described in subsection (5)(b), expire on the anniversary date established by rule by the board of review established in 30-16-302.

(b) Licenses for on-farm scales expire at the end of the calendar year.

(6) (a) A late renewal fee equal to 50% of the renewal license fee established in subsection (3) must be assessed if the fee is not paid:

(i) for on-farm scales, before the first day of the sixth month of the year in which the license fee is due; or

(ii) for all other licenses, within 60 days of the anniversary date.

(b) If the fee is not paid by the respective due date listed in subsection (6)(a), the weighing device may be sealed and removed from service by the department.

(c) A person may not use a weighing device that has been removed from service or break the seal on a device removed from service until all fees have been paid.

(7) The fees must be deposited to the state special revenue fund of the department for use in the administration and enforcement of this part.

(8) On and after October 1, 2009, the department may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(9) The department shall conduct a review of licenses issued by it to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (8). Any license that the department finds has been issued to an unauthorized alien must be revoked using a procedure determined by the department to offer due process of law to the person. The only issue to be determined by the department on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

NEW SECTION. Section 21. License not to be issued to certain aliens -- suspension and revocation. (1) On and after October 1, 2009, the department or a board may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(2) The department or board shall conduct a review of licenses issued by it to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (1). Any license that the department or board finds has been issued to an unauthorized alien must be revoked using a procedure determined by the department or board to offer due process of law to the person. The only issue to be determined by the department or board on which evidence may be received is whether the United States has determined the person to be an unauthorized alien.

1
2 **Section 22.** Section 49-3-204, MCA, is amended to read:

3 **"49-3-204. Licensing.** (1) A state or local governmental agency may not grant, deny, or revoke the
4 license or charter of a person on the grounds of race, color, religion, creed, political ideas, sex, age, marital
5 status, physical or mental disability, or national origin. Each state or local governmental agency shall take
6 appropriate action in the exercise of its licensing or regulatory power ~~as that~~ will ~~assure~~ ensure equal treatment
7 of all persons, eliminate discrimination, and enforce compliance with the policy of this chapter. This subsection
8 does not prevent the department of public health and human services from licensing a child-placing agency that
9 gives nonarbitrary consideration in adoption proceedings to relevant information concerning the factors listed in
10 this subsection. Consideration of religious factors by a licensed child-placing agency that is affiliated with a
11 particular religious faith is not arbitrary consideration of religion within the meaning of this section.

12 (2) The state may not issue or renew a license under Title 16, chapter 4, to an applicant or licensee that
13 excludes from its membership or from its goods, services, facilities, privileges, or advantages any individual on
14 the grounds of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability,
15 or national origin. This subsection does not apply to any lodge of a recognized national fraternal organization.

16 (3) Any provision that does not allow a state or local governmental agency, on and after October 1, 2009,
17 to grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3)
18 does not violate the provisions of this section."

19
20 **Section 23.** Section 50-6-306, MCA, is amended to read:

21 **"50-6-306. License required.** (1) A person may not conduct or operate an emergency medical service
22 without first obtaining a license from the department. A separate license is required for each type and level of
23 service.

24 (2) Applications for a license must be made in writing to the department on forms specified by the
25 department.

26 (3) Each license must be issued for a specific term not to exceed 2 years. Renewal may be obtained by
27 paying the required license fee and demonstrating compliance with department rules.

28 (4) The license is not transferable.

29 (5) On and after October 1, 2009, the department may not grant a license to a person who is determined
30 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

1 (6) The department shall conduct a review of licenses issued by it to determine whether any license has
2 been issued to a person who is not allowed hold a license pursuant to subsection (5). Any license that the
3 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
4 the department to offer due process of law to the person. The only issue to be determined by the department on
5 which evidence may be received is whether the United States has determined the person to be an unauthorized
6 alien."

7
8 **Section 24.** Section 50-39-101, MCA, is amended to read:

9 **"50-39-101. License and endorsements required.** (1) A person or entity shall obtain a license from
10 the department of labor and industry before engaging in the business of servicing fire extinguishers or before
11 engaging in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression
12 systems, or fire extinguishing systems. Each individual, except an apprentice, employed by the licensee to
13 perform services under the license shall obtain from the department an endorsement to sell, service, or install:

14 (a) fire alarm systems;

15 (b) special agent fire suppression systems; or

16 (c) fire extinguishing systems.

17 (2) The license and endorsement or endorsements must be prominently displayed at the business
18 premises, and copies must be carried by the person conducting each installation or servicing and must be shown
19 to anyone who requests to see them.

20 (3) It is a misdemeanor to knowingly or purposely service a fire extinguisher or sell, service, or install a
21 fire alarm system, special agent fire suppression system, or fire extinguishing system without the required license
22 and endorsement.

23 (4) This chapter may not be construed to prohibit a licensed electrician, practicing within the scope of
24 practice of electricians, as provided in Title 37, chapter 68, from installing components of fire protection equipment
25 if the installation is inspected and approved by an individual endorsed to sell, service, or install fire protection
26 equipment.

27 (5) On and after October 1, 2009, the department of labor and industry may not grant a license to a
28 person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

29 (6) The department of labor and industry shall conduct a review of licenses issued by it to determine
30 whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (5).

1 Any license that the department of labor and industry finds has been issued to an unauthorized alien must be
2 revoked using a procedure determined by the department to offer due process of law to the person. The only
3 issue to be determined by the department of labor and industry on which evidence may be received is whether
4 the United States has determined the person to be an unauthorized alien."

5
6 **Section 25.** Section 50-50-201, MCA, is amended to read:

7 **"50-50-201. License required.** (1) Except as provided in 50-50-202, a person operating an
8 establishment shall procure an annual license from the department.

9 (2) A separate license is required for each establishment, but if more than one type of establishment is
10 operated on the same premises and under the same management, only one license is required.

11 (3) Only one license is required for a person owning and operating one or more vending machines.

12 (4) A license issued by the department is not valid unless signed in accordance with 50-50-214.

13 (5) On and after October 1, 2009, the department may not grant a license to a person who is determined
14 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

15 (6) The department shall conduct a review of licenses issued by it to determine whether any license has
16 been issued to a person who is not allowed to hold a license pursuant to subsection (5). Any license that the
17 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
18 the department to offer due process of law to the person. The only issue to be determined by the department on
19 which evidence may be received is whether the United States has determined the person to be an unauthorized
20 alien."

21
22 **Section 26.** Section 50-51-201, MCA, is amended to read:

23 **"50-51-201. License required.** (1) Except as provided in subsection (2), a person engaged in the
24 business of conducting or operating an establishment shall annually procure a license issued by the department.

25 (2) A guest ranch or an outfitting and guide facility that does not meet the definitions in 50-51-102 and
26 that provides accommodations to fewer than nine people during each day of operation is not required to obtain
27 a license under subsection (1).

28 ~~(3) Guest ranches and outfitting and guide facilities need not apply for a license pursuant to this chapter~~
29 ~~for the first time until the later of:~~

30 ~~—— (a) the completion of negotiated rulemaking and public notification by the department of the necessity~~

1 ~~for those guest ranches or outfitting and guide facilities to obtain a license pursuant to this chapter; or~~

2 ~~—— (b) July 1, 1998:~~

3 ~~—— (4)(3)~~ A separate license is required for each establishment. However, when more than one type of
4 establishment is operated on the same premises and under the same management, only one license is required
5 that must enumerate on the certificate the types of establishments licensed.

6 ~~(5)(4)~~ Before a license may be issued by the department, it must be validated by the local health officer
7 or, if there is no local health officer, the sanitarian, in the county where the establishment is located.

8 (5) On and after October 1, 2009, the department may not grant a license to a person who is determined
9 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

10 (6) The department shall conduct a review of licenses issued by it to determine whether any license has
11 been issued to a person who is not allowed to hold a license pursuant to subsection (5). Any license that the
12 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
13 the department to offer due process of law to the person. The only issue to be determined by the department on
14 which evidence may be received is whether the United States has determined the person to be an unauthorized
15 alien."

16
17 **Section 27.** Section 50-52-201, MCA, is amended to read:

18 **"50-52-201. Application for license.** (1) Application for a license is made to the department on forms
19 containing information required by the department.

20 (2) The department may not issue a license unless it has been validated by the local health officer or,
21 if there is no local health officer, the sanitarian in the county where the establishment is located.

22 (3) On and after October 1, 2009, the department may not grant a license to a person who is determined
23 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

24 (4) The department shall conduct a review of licenses issued by it to determine whether any license has
25 been issued to a person who is not allowed to hold a license pursuant to subsection (3). Any license that the
26 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
27 the department to offer due process of law to the person. The only issue to be determined by the department or
28 board on which evidence may be received is whether the United States has determined the person to be an
29 unauthorized alien."

1 **Section 28.** Section 50-57-201, MCA, is amended to read:

2 **"50-57-201. License required.** (1) A person operating an establishment shall procure an annual license
3 from the department.

4 (2) Except as provided in subsection (3), a separate license is required for each establishment, but if
5 more than one type of establishment is operated on the same premises and under the same management, only
6 one license is required.

7 (3) A person operating an establishment and a retail food establishment is required to obtain a separate
8 license for the establishment under this chapter and for the retail food establishment under Title 50, chapter 50.

9 (4) On and after October 1, 2009, the department may not grant a license to a person who is determined
10 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

11 (5) The department shall conduct a review of licenses issued by it to determine whether any license has
12 been issued to a person who is not allowed to hold a license pursuant to subsection (4). Any license that the
13 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
14 the department to offer due process of law to the person. The only issue to be determined by the department on
15 which evidence may be received is whether the United States has determined the person to be an unauthorized
16 alien."

17
18 **Section 29.** Section 52-2-621, MCA, is amended to read:

19 **"52-2-621. License required.** (1) A person may not maintain or operate a youth care facility for any child
20 or children within the meaning of this part without first securing a license from the department.

21 (2) A kinship care provider who provides unlicensed care for a child placed pursuant to the legal authority
22 of the department must receive approval in writing from the department.

23 (3) An extended family member, as defined by the department, who provides unlicensed care for a youth
24 who receives services provided through the department's developmental disabilities program, mental health
25 program, or medicaid home- and community-based services waiver program must receive approval in writing from
26 the department.

27 (4) The department may not charge a fee for a license or approval granted under this section.

28 (5) On and after October 1, 2009, the department may not grant a license to a person who is determined
29 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

30 (6) The department shall conduct a review of licenses issued by it to determine whether any license has

1 been issued to a person who is not allowed to hold a license pursuant to subsection (5). Any license that the
2 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
3 the department to offer due process of law to the person. The only issue to be determined by the department on
4 which evidence may be received is whether the United States has determined the person to be an unauthorized
5 alien."

6
7 **Section 30.** Section 52-2-721, MCA, is amended to read:

8 **"52-2-721. License required -- registration required -- term of license or registration certificate**
9 **-- no fee charged.** (1) A person, group of persons, or corporation may not:

10 (a) establish or maintain a day-care center for children, in which day care is provided on a regular basis,
11 unless licensed to do so by the department;

12 (b) operate a family day-care home or group day-care home without first procuring a family day-care or
13 group day-care registration certificate from the department.

14 (2) The license and registration certificate must contain the ages and numbers of children for whom day
15 care may be provided.

16 (3) The applicant's own children must be included in the manner provided for in department regulations
17 in the total number of children to be cared for under the license or registration certificate.

18 (4) The department:

19 (a) may issue a license or registration certificate that remains in effect for a period not to exceed 3 years;
20 and

21 (b) may not charge a fee to issue a license or registration certificate.

22 (5) A 3-year license may be issued only to a provider who has not received notice of any deficiencies
23 on the licensing criteria and implementing guidelines that are provided in department rule.

24 (6) The department may issue a license to a day-care center in which day care is provided on an
25 irregular basis if the person operating the center chooses to apply for licensure.

26 (7) On and after October 1, 2009, the department may not grant a license or registration certificate to
27 a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

28 (8) The department shall conduct a review of licenses or registration certificates issued by it to determine
29 whether any license or registration certificate has been issued to a person who is not allowed to hold a license
30 pursuant to subsection (7). Any license or registration certificate that the department finds has been issued to

1 an unauthorized alien must be revoked using a procedure determined by the department to offer due process
2 of law to the person. The only issue to be determined by the department or board on which evidence may be
3 received is whether the United States has determined the person to be an unauthorized alien."

4
5 **Section 31.** Section 67-3-101, MCA, is amended to read:

6 **"67-3-101. Regulation and licensing -- general provisions.** (1) In order to promote the general public
7 interest and safety and to carry out the purposes of this title, the department may:

8 (1)(a) require the annual registration of federal licenses, permits, or certificates of civil aircraft engaged
9 in air navigation within this state, of aircrews engaged in aeronautics within this state, and of aeronautics
10 instructors giving instruction in flying subjects and may issue certificates of registration. The certificates of
11 registration constitute licenses of the aircraft, aircrews, and instructors for operations within this state to the extent
12 permitted by the federal licenses, certificates, or permits so registered. The department may charge a fee for the
13 registration of each federal license, certificate, or permit not exceeding \$10. It may accept as evidence of the
14 holding of a federal license, certificate, or permit the verified application of the owner of the aircraft, a member
15 of the aircrew, or the instructor. The application ~~shall~~ must contain information ~~which~~ that the department may
16 by rule or order prescribe.

17 (2)(b) register aircraft repair shops, aircraft, aircraft parts and sales dealers, and other persons operating
18 in aviation and license aircraft repair shops, aircraft, aircraft parts and sales dealers, and other persons operating
19 in aviation, air schools, and aeronautics instructors giving instruction in ground subjects, in accordance with rules
20 to be adopted by the department, and may annually renew these licenses. It may charge for the original licensing
21 of aircraft repair shops, aircraft, aircraft parts and sales dealers, and other persons operating in aviation, air
22 schools, and aeronautics instructors not more than \$10 and for the renewal of a license not more than \$10.

23 (3)(c) upon notification by the federal aviation administration that it has revoked the license or certificate
24 of an aircraft, aircrew member, air school, or aeronautics instructor, temporarily or permanently revoke the license
25 or certificate of registration issued for that aircraft, aircrew member, air school, or aeronautics instructor, giving
26 reasons for the action.

27 (2) On and after October 1, 2009, the department may not grant a license to a person who is determined
28 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

29 (3) The department conduct a review of licenses issued by it to determine whether any license has been
30 issued to a person who is not allowed to hold a license pursuant to subsection (2). Any license that the

department finds has been issued to an unauthorized alien must be revoked using a procedure determined by the department to offer due process of law to the person. The only issue to be determined by the department on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

Section 32. Section 81-9-201, MCA, is amended to read:

"81-9-201. Meat establishment license -- fees and renewals. (1) It is unlawful for a person, firm, or corporation to engage in the business of slaughtering livestock or poultry, including the operation of a mobile slaughter facility as defined in 81-9-217, or processing, storing, or wholesaling livestock or poultry products without having a license issued by the department. The department shall establish an annual fee for a license issued under this section, to be paid into the state special revenue fund for the use of the department.

(2) All licenses expire each year on the anniversary date established by rule by the board of review established in 30-16-302 and must be renewed by the department on request of the licensee. However, when the department finds that the establishment for which the license is issued is not conducted in accordance with the rules and orders of the board made under 81-2-102, the department shall revoke the license and may not renew it until the establishment is in a sanitary condition in accordance with department rules.

(3) A person, firm, or corporation violating this section or any rule or order promulgated by authority of 81-2-102 is guilty of a misdemeanor and upon conviction shall be fined not more than \$500.

(4) On and after October 1, 2009, the department may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(5) The department shall conduct a review of licenses issued by it to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (4). Any license that the department finds has been issued to an unauthorized alien must be revoked using a procedure determined by the department to offer due process of law to the person. The only issue to be determined by the department on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

Section 33. Section 81-9-301, MCA, is amended to read:

"81-9-301. Licensing of rendering or disposal plants. (1) It is unlawful to operate in this state a rendering or disposal plant or establishment that is intended to be operated for the disposal of bodies or parts

1 of bodies of animals or fowl in any manner, except for human consumption, without first securing a license from
2 the department of livestock.

3 (2) The license expires on December 31 of the year in which it is issued. The department shall establish
4 a fee to be charged for licenses issued under 81-9-301 through 81-9-306.

5 (3) All license fees collected ~~shall~~ must be paid into the state special revenue fund for the use of the
6 department.

7 (4) On and after October 1, 2009, the department may not grant a license to a person who is determined
8 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

9 (5) The department shall conduct a review of licenses issued by it to determine whether any license has
10 been issued to a person who is not allowed to hold a license pursuant to subsection (4). Any license that the
11 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
12 the department to offer due process of law to the person. The only issue to be determined by the department on
13 which evidence may be received is whether the United States has determined the person to be an unauthorized
14 alien."

15
16 **Section 34.** Section 81-9-411, MCA, is amended to read:

17 **"81-9-411. Hide dealer or buyer's license fee -- disposition of proceeds.** (1) Before engaging in
18 business in this state, a hide dealer or buyer shall obtain a license from the department. The department shall
19 establish an annual license fee to be charged for each established place of business at which the hide dealer or
20 buyer purchases or deals in hides. The license continues in force for that calendar year. The ~~moneys~~ money
21 collected from the licenses ~~shall~~ must be placed in the state special revenue fund for the department. The license
22 must be renewed January 1 of each year.

23 (2) On and after October 1, 2009, the department may not grant a license to a person who is determined
24 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

25 (3) The department shall conduct a review of licenses issued by it to determine whether any license has
26 been issued to a person who is not allowed to hold a license pursuant to subsection (2). Any license that the
27 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
28 the department to offer due process of law to the person. The only issue to be determined by the department on
29 which evidence may be received is whether the United States has determined the person to be an unauthorized
30 alien."

1

2 **Section 35.** Section 81-20-201, MCA, is amended to read:

3 **"81-20-201. Wholesale egg dealer's and egg grader's licenses -- exemptions -- fee.** (1) A person
4 may not buy, sell, or deal in eggs without first obtaining a wholesale egg dealer's license from the department for
5 each establishment at which business is conducted.

6 (2) The department shall establish a license fee for dealers buying eggs for resale at wholesale. All
7 licenses must be posted in a conspicuous place in each place of business.

8 (3) (a) A person buying, selling, or dealing in eggs, a major portion of which are produced by the person's
9 own fowl or in amounts less than an average of 25 cases a month over a 12-month period, is exempt from the
10 requirements of this section.

11 (b) A person buying eggs for sale at retail is not required to obtain a license from the department.

12 (4) Wholesale and retail dealers who handle more than an average of 25 cases of eggs a month over
13 a 12-month period and who are supplying eggs to consumers shall sell only eggs candled by or under the
14 supervision of experienced and licensed graders.

15 (5) The department shall establish a fee for a grader's license. All candlers and graders shall pass an
16 examination required by the department.

17 (6) A person licensed under this section shall send to the department any information or reports that the
18 department requires.

19 (7) The licenses provided for in this section expire each year on the anniversary date established by rule
20 by the board of review established in 30-16-302.

21 (8) On and after October 1, 2009, the department may not grant a license to a person who is determined
22 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

23 (9) The department shall conduct a review of licenses issued by it to determine whether any license has
24 been issued to a person who is not allowed to hold a license pursuant to subsection (8). Any license that the
25 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
26 the department to offer due process of law to the person. The only issue to be determined by the department on
27 which evidence may be received is whether the United States has determined the person to be an unauthorized
28 alien."

29

30 **Section 36.** Section 81-21-102, MCA, is amended to read:

"81-21-102. Licensing of milk plants and dairies selling milk or cream for public consumption.

(1) It is unlawful for the following businesses to operate in this state without first obtaining a license from the department:

- (a) a dairy selling milk or cream for public consumption in the form in which it is originally produced;
- (b) a condensed, evaporated, or powdered milk plant;
- (c) a fluid milk plant.

(2) A license expires on December 31 of the year issued. The department may, following the procedures in the Montana Administrative Procedure Act, deny, suspend, or revoke a license when it determines that a person to whom the license is issued has failed to comply with the rules of the department or has failed to conduct his the establishment in a sanitary manner. All license fees collected ~~shall~~ must be deposited into the general fund.

(3) The department may issue a restraining order prohibiting a dairy from selling or giving away milk or cream not produced or handled under the laws of this state or the rules of the department. It is unlawful for a dairy, while restrained, to sell or give away for public consumption milk or cream produced or handled by the dairy, and it is also unlawful for a dairy products manufacturing plant, milk plant, or cream station to purchase or use the cream or milk from a dairy while the dairy is restrained.

(4) The department shall establish license fees for the following facilities:

- (a) condensed, evaporated, or powdered milk factory;
- (b) fluid milk plant; and
- (c) dairy.

(5) A person violating this section is guilty of a misdemeanor.

(6) On and after October 1, 2009, the department may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(7) The department shall conduct a review of licenses issued by it to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (6). Any license that the department finds has been issued to an unauthorized alien must be revoked using a procedure determined by the department to offer due process of law to the person. The only issue to be determined by the department on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

1 **Section 37.** Section 81-22-201, MCA, is amended to read:

2 **"81-22-201. License required to operate manufactured dairy products plant.** (1) ~~It shall be~~ is
3 unlawful for any person to operate a manufactured dairy products plant, concentrated, condensed, or evaporated
4 milk ~~plant, and/or cream plant or evaporated milk and cream plant,~~ milk and cream buying station, creamery, dairy
5 producing milk for manufacturing purposes, water ice manufacturing plant, cheese plant including cottage cheese,
6 and cream cheese, sour cream, yogurt, or frozen dessert manufacturing plant without first obtaining a license
7 from the department.

8 (2) Any manufactured dairy products plant or dairy ~~which~~ that undergoes a change of ownership ~~shall~~
9 ~~be~~ is considered a new plant or dairy for relicensing purposes, provided that changes of ownership ~~shall~~ may not
10 be construed to include changes of stockholders.

11 (3) On and after October 1, 2009, the department may not grant a license to a person who is determined
12 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

13 (4) The department shall conduct a review of licenses issued by it to determine whether any license has
14 been issued to a person who is not allowed to hold a license pursuant to subsection (3). Any license that the
15 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
16 the department to offer due process of law to the person. The only issue to be determined by the department on
17 which evidence may be received is whether the United States has determined the person to be an unauthorized
18 alien."

19
20 **Section 38.** Section 81-22-204, MCA, is amended to read:

21 **"81-22-204. License required for milk or cream route.** (1) It is unlawful for a person to engage in
22 hauling milk or cream on an established milk or cream route for a manufactured dairy products plant, milk plant,
23 or milk or cream station without first procuring a license from the department. The department shall establish a
24 fee for the license.

25 (2) On and after October 1, 2009, the department may not grant a license to a person who is determined
26 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

27 (3) The department shall conduct a review of licenses issued by it to determine whether any license has
28 been issued to a person who is not allowed to hold a license pursuant to subsection (2). Any license that the
29 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
30 the department to offer due process of law to the person. The only issue to be determined by the department on

1 which evidence may be received is whether the United States has determined the person to be an unauthorized
2 alien."

3
4 **Section 39.** Section 81-23-201, MCA, is amended to read:

5 **"81-23-201. Licenses to producers, producer-distributors, distributors, and jobbers.** (1) In any
6 market where the provisions of this chapter apply, it is unlawful for a producer, producer-distributor, distributor,
7 or jobber to produce, transport, process, store, handle, distribute, buy, or sell milk unless the dealer is properly
8 licensed as provided by this chapter. It is unlawful for a person to buy, sell, handle, process, or distribute milk
9 ~~which he~~ that the person knows or has reason to believe has been previously dealt with or handled in violation
10 of any provision of this chapter. The department may decline to grant a license or may suspend or revoke a
11 license already granted, upon due cause and after hearings.

12 (2) On and after October 1, 2009, the department may not grant a license to a person who is determined
13 to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

14 (3) The department shall conduct a review of licenses issued by it to determine whether any license has
15 been issued to a person who is not allowed to hold a license pursuant to subsection (2). Any license that the
16 department finds has been issued to an unauthorized alien must be revoked using a procedure determined by
17 the department to offer due process of law to the person. The only issue to be determined by the department on
18 which evidence may be received is whether the United States has determined the person to be an unauthorized
19 alien."

20
21 **Section 40.** Section 82-15-105, MCA, is amended to read:

22 **"82-15-105. Licenses and fees -- status of license on transfer of ownership.** (1) A petroleum dealer
23 or liquefied petroleum dealer may not do business in this state until licensed by the department. The license must
24 be obtained by the dealer by making application to the department upon forms provided by the department. A
25 dealer who has not been issued a license and who is found selling, offering for sale, delivering, or distributing
26 petroleum products shall be punished upon conviction as provided by this part.

27 (2) The department shall adopt rules establishing license fees based upon the measuring devices used
28 by the dealer. The fees may be paid by credit card and may be discounted for payment processing charges paid
29 by the department to a third party. The fees must be deposited in the state special revenue fund of the department
30 for use in administrating and enforcing this part.

(3) All licenses are annual and expire on the anniversary date established by rule by the board of review established in 30-16-302. There is an additional charge of 50% on all license fees that are not paid within 60 days of the licensee's anniversary date. If the fee is not paid, the equipment must be sealed and removed from service by the department. It is unlawful for anyone to use a device removed from service or to break the seal until all fees have been paid.

(4) On and after October 1, 2009, the department may not grant a license to a person who is determined to be an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3).

(5) The department shall conduct a review of licenses issued by it to determine whether any license has been issued to a person who is not allowed to hold a license pursuant to subsection (4). Any license that the department finds has been issued to an unauthorized alien must be revoked using a procedure determined by the department to offer due process of law to the person. The only issue to be determined by the department on which evidence may be received is whether the United States has determined the person to be an unauthorized alien."

NEW SECTION. Section 41. Codification instruction. (1) [Section 13] is intended to be codified as an integral part of Title 16, chapter 4, part 1, and the provisions of Title 16, chapter 4, part 1, apply to [section 13].

(2) [Section 14] is intended to be codified as an integral part of Title 16, chapter 4, part 2, and the provisions of Title 16, chapter 4, part 2, apply to [section 14].

(3) [Section 15] is intended to be codified as an integral part of Title 16, chapter 4, part 3, and the provisions of Title 16, chapter 4, part 3, apply to [section 15].

(4) [Section 21] is intended to be codified as an integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 21].

NEW SECTION. Section 42. Applicability. [This act] applies to an individual who initially applies for a state or local public benefit, license, or registration on or after October 1, 2009.

- END -